

September 30, 2020

National FOIA Office
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2310A)
Washington, DC 20460
Submitted Via foiaonline.gov

Re: Freedom of Information Act Request

Pursuant to the Freedom of Information Act, 5. U.S.C. § 552, and the implementing regulations of your agency¹, Accountable.US requests access to and copies of review reports referred to in President Trump's June 4, 2020 Executive Order on Accelerating the Nation's Economic Recovery from the COVID-19 Emergency by Expediting Infrastructure Investments and Other Activities,² as described in section 8 below that were submitted between June 4, 2020 and September 30, 2020.

Section 8: "Sec. 8. Emergency Regulations and Nationwide Permits Under the Clean Water Act (CWA) and Other Statutes Administered by the Army Corps of Engineers. (a) No later than 30 days of the date of this order, the heads of all agencies, including the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works:

(i) shall identify planned or potential actions to facilitate the Nation's economic recovery that may be subject to emergency treatment pursuant to the regulations and nationwide permits promulgated by the Army Corps of Engineers, or jointly by the Corps and the Environmental Protection Agency (EPA), pursuant to section 404 of the Clean Water Act, 33 U.S.C. 1344, section 10 of the Rivers and Harbors Act of March 3, 1899, 33 U.S.C. 403, and section 103 of the Marine Protection Research and Sanctuaries Act of 1972, 33 U.S.C. 1413 (collectively, the "emergency Army Corps permitting provisions"); and

(ii) shall provide a summary report, listing such actions, to the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works; the OMB Director; the Assistant to the President for Economic Policy; and the Chairman of CEQ. Such report may be combined, as appropriate, with any other reports required by this order."

If possible, we would prefer to receive this information electronically via e-mail at FOIA@accountable.us. Alternatively, we prefer PDF files on a USB drive or CD/DVD sent by mail to Accountable.US, 1919 M St. NW, Suite 450, Washington, DC 20036. If you have questions or need additional information, please feel free to call me at (312) 772-5218.

Fee Waiver Request

¹ 40 C.F.R. § 1515 et seq

² Executive Order on Accelerating the Nation's Economic Recovery from the COVID-19 Emergency by Expediting Infrastructure Investments and Other Activities, [6/4/20](https://www.federalregister.gov/documents/2020/06/04/2020-11441/executive-order-on-accelerating-the-nations-economic-recovery-from-the-covid-19-emergency-by-expediting-infrastructure-investments-and-other-activities)

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Accountable.US requests a waiver of fees because it qualifies for classification as a “news media” requester, responsible only for duplication fees under FOIA's fee assessment provisions.³

So-called media status is consistent with how Accountable.US components have been treated by multiple agencies. The U.S. Department of the Treasury, Consumer Financial Protection Bureau (CFPB), and Federal Communications Commission (FCC) have all recognized this status in light of the regular publication and dissemination activities in which Accountable.US and its components, engage. Accountable.US will also make materials it gathers available on its public website.⁴

The disclosure of the requested information is also “in the public interest because it is likely to contribute significantly to public understanding” of government operations and is not “primarily in the commercial interest of the requester.” The disclosure of the information sought under this request will document and reveal the operations of the federal government, including how public funds are spent and how officials conduct the public's business.

This request is primarily and fundamentally for non-commercial purposes.⁵ On March 26, 2019, Accountable.US applied to be recognized as a not for profit, 501(c)(3) organization, with the Internal Revenue Service. Accordingly, Accountable.US does not have a commercial purpose and the release of the information requested is not in Accountable.US's financial interest. Accountable.US's mission is to ensure public officials are advancing policies in the public's interest not for special interests.

Accordingly, Accountable.US qualifies for a fee waiver.

Request for Expedited Processing.

Pursuant to the FOIA, 5 U.S.C. § 552(a)(6)(E)(1) and your agency's regulations,⁶ Accountable.US requests expedited processing of this request. To that end, Accountable.US states the following:

I certify to be true and correct to the best of my knowledge and belief that the information requested is urgently needed in order to inform the public about actual or alleged government activity.

I [further] certify to be true and correct to the best of my knowledge and belief that there is widespread and exceptional media interest and there exist possible questions concerning the government's integrity, which affect public confidence.

Conclusion

³ 5 U.S.C. § 552(a)(4)(A)(iii).

⁴ Accountable.US and its components have demonstrated a commitment to public disclosure and public education through its website. For example, their websites contain multiple substantive analyses, document repositories, and other educational resources: AlliedProgress.org/research; AlliedProgress.org/campaigns; RestorePublicTrust.org/news; RestorePublicTrust.org/BigPharmasBestFriends; WesternValuesProject.org/DepartmentofInfluence

⁵ 5 U.S.C. § 552(a)(4)(A)(iii).

⁶ 40 C.F.R. § 1515 et seq

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If you have any questions regarding this request, including how to construe the records sought or appropriate searches to locate them, please contact Accountable.US.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. Additionally, if any documents are withheld based on the Agency's interpretation of any exemption, Accountable.US requests that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). Specifically, this Vaughn index should describe withheld documents with enough specificity to determine whether the material is exempt under the act and must describe each document or portion withheld.

Thank you for your assistance.

Sincerely,

Chris Saeger